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REMARKS

At the outset, applicant noticed that the examiner has acknowledged that only claims 38-44 were pending. However, the application was filed with 50 original claims (see published document) and the preliminary amendment directed to the cancellation of only claims 1-37. Thus Applicant believes that claims 38 to 50 are currently pending in this case and presented for reconsideration.

Claims 38-50 are pending. Claims 38, 39, and 42-50 are amended. Support for the amendments can be found in the specification in reference to the published application US2004/0072961 as follows.

Claim 38:

- Support for the term "suspension" may be found at least at paragraphs [0029], [0050] to [0053] that describe the macromers or portions thereof as forming micelles.
- Support for the terms "covalently linked polymeric blocks" at least at paragraph [0029].
- Support for "one thermally sensitive region" may be found at least at paragraph [0030] which refers to a block of poloxamer as a "thermosensitive".
- Support for "gel has a temperature dependent volume" may be found at least in Figure 2, and legend thereof.

Claim 39: support for this amendment may be found in Figure 2.

Claim 42: support for the term "aqueous" may be found throughout in the use of the term "hydrogel", and at least at paragraphs [0078] referring to buffered saline, [0099], for examples.

Claim 45: support to the biologically active agents may be found at least at paragraphs [0073] et seq.

Claim 46: support for the term "biodegradable blocks" may be found at least at paragraphs [0060] to [0063].

Claim 47: support may be found at least at paragraph [0078].

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Claim 48: support for the terms "crosslinked by photopolymerization" may be found at least at paragraph [0086].

Applicant believes that these amendments do not introduce new matter.

Rejection of claim 44 under 112, second paragraph

Claim 44 is rejected under 35 USC §112, second paragraph as being allegedly indefinite in its recitation of "gel forms a microparticle after crosslinking". Applicant has amended the claim to recite that "the gel is formed of microparticles". Applicant believes that this amendment renders the claim clear and definite.

Rejection of Claims under 102(b) and 103 (a)

1. Claims 38 to 44 are rejected under 35 U.S.C. § 102(b) or 103(a) as being allegedly anticipated by, or unpatentable as obvious in view of, Nair (US 5,429,826). Applicant respectfully submits that the claims as currently amended are patentable over the cited art, as the art does not teach or suggest the claimed invention.

Independent claim 38 is amended to recite that the macromer comprise a thermally sensitive region and that the gel formed thereof have a temperature dependent volume.

Nair does not teach or suggest a macromer that contains a thermally sensitive region, i.e. one that changes some of its properties based on changes in temperature. Therefore Nair does not anticipate the present claims.

Accordingly, Applicant submits that the present claims are patentable over the cited art. Applicant respectfully requests that this rejection be withdrawn.